

## **PUBLIC WORKS COMMITTEE**

**DATE:** May 28, 2009

**CALLED TO ORDER:** 5:37 p.m.

**ADJOURNED:** 6:56 p.m.

### **ATTENDANCE**

#### ATTENDING MEMBERS

Benjamin Hunter, Chair  
Ginny Cain  
Brian Mahern  
Dane Mahern  
Angela Mansfield  
Janice McHenry  
Mary Moriarty Adams  
Christine Scales  
Mike Speedy

#### ABSENT MEMBERS

### **AGENDA**

PROPOSAL NO. 172, 2009 – authorizes one-way restrictions on Waldemere Avenue and Alley 1175 South (District 13)  
“Postpone” until June 18, 2009

Vote 9-0

PROPOSAL NO. 197, 2009 - authorizes a multi-way stop at the intersection of Bolton Avenue and Lowell Avenue (District 21)  
“Do Pass”

Vote 9-0

PROPOSAL NO. 198, 2009 - authorizes intersection controls at Lakeland Trails Boulevard and Ridge Harvest Lane and Lakeland Trails Boulevard and Silver Lake Place (District 25)  
“Do Pass”

Vote 9-0

PROPOSAL NO. 199, 2009 - authorizes intersection controls in the Greythorne subdivision, Sections 2 and 3 (District 25)  
“Do Pass”

Vote 9-0

PROPOSAL NO. 200, 2009 - authorizes intersection controls in the Mayfair Village subdivision, Section 1 (District 21)  
“Do Pass”

Vote 9-0

PROPOSAL NO. 201, 2009 - authorizes a change in parking meters on the south side of Washington Street by the new JW Marriott Hotel being constructed on the southwest corner of Washington and West Streets (Districts 15 and 19)

"Do Pass"

Vote 9-0

PROPOSAL NO. 202, 2009 - amends Chapter 511, Air Pollution Control, of the Revised Code to formally codify noxious odor emission standards and to regulate noxious odor emissions in Indianapolis and Marion County

"Postpone"

Vote 8-0

## **PUBLIC WORKS COMMITTEE**

The Public Works Committee of the City-County Council met on Thursday, May 28, 2009. Chairman Benjamin Hunter called the meeting to order at 5:37 p.m. with the following members present: Ginny Cain, Brian Mahern, Dane Mahern, Angela Mansfield, Janice McHenry, Mary Moriarty Adams, Christine Scales, and Mike Speedy. General Counsel Robert Elrod represented Council Staff. Also present were Councillors Jose Evans and Doris Minton-McNeill.

PROPOSAL NO. 172, 2009 – authorizes one-way restrictions on Waldemere Avenue and Alley 1175 South (District 13)

Chairman Hunter said that he has spoken with Councillor Robert Lutz and he would like for this proposal to be postponed. Councillor Moriarty Adams moved, seconded by Councillor Cain, to “Postpone” Proposal No. 172, 2009 until June 18, 2009. The motion carried by a vote of 9-0.

Chairman Hunter asked for consent to hear Proposal Nos. 197, 198, 199, 200, and 201, 2009 together. Consent was given.

PROPOSAL NO. 197, 2009 - authorizes a multi-way stop at the intersection of Bolton Avenue and Lowell Avenue (District 21)

PROPOSAL NO. 198, 2009 - authorizes intersection controls at Lakeland Trails Boulevard and Ridge Harvest Lane and Lakeland Trails Boulevard and Silver Lake Place (District 25)

PROPOSAL NO. 199, 2009 - authorizes intersection controls in the Greythorne subdivision, Sections 2 and 3 (District 25)

PROPOSAL NO. 200, 2009 - authorizes intersection controls in the Mayfair Village subdivision, Section 1 (District 21)

PROPOSAL NO. 201, 2009 - authorizes a change in parking meters on the south side of Washington Street by the new JW Marriott Hotel being constructed on the southwest corner of Washington and West Streets (Districts 15 and 19)

Councillor Cain asked Nathan Sheets, Sr. Project Manager, Department of Public Works (DPW), if all of the Councillors representing these districts have approved these proposals. Mr. Sheets answered in the affirmative.

Councillor Moriarty Adams moved, seconded by Councillor Dane Mahern, to forward Proposal Nos. 197, 198, 199, 200, and 201, 2009 to the full Council with “Do Pass” recommendations. The motion carried by a vote of 9-0.

PROPOSAL NO. 202, 2009 - amends Chapter 511, Air Pollution Control, of the Revised Code to formally codify noxious odor emission standards and to regulate noxious odor emissions in Indianapolis and Marion County

Councillor Evans read a statement, **attached as Exhibit A**. Councillor Cain asked Councillor Evans what the \$60,000 in expenses are for. Councillor Evans said there are fees generated when the fire department responds to runs. For example, when a constituent makes a call to the Pike Township Fire Department about an odor of gas, the fire department has to go out in case it is an oil leak or spill in order to prevent an explosion. He said this is not just an issue in Pike Township, but Zionsville and Carmel are also experiencing similar issues. Councillor Scales asked what Enviro-Solutions Incorporated (ESI) does, and how many attempts have been made to contact them about the problem of noxious odors. Councillor Evans said based on his conversations with the Pike Township Fire Department and constituents, ESI receives a lot of hazardous materials from surrounding regions, they break the materials down and resell them, and burn the remaining scraps. He said ESI has also had a lot of problems in the past with dumping substances in the sewer system. Councillor Evans said he has pictures that show some of the oil spills that ESI has done within his district, and he said he knows for a fact that the company has paid hundreds and thousands of dollars in lawsuit fees. Councillor Evans said this is a health issue as well as an odor issue.

Councillor Scales asked Councillor Evans if there is an official record of citations that have been issued to ESI, and what governing agency has issued those citations. Councillor Evans said he brought a list of citations from United Wastewater. According to their 2008 records of non-compliance, ESI has received 15 citations. Councillor Evans said the citations are for three chemicals. He said he has received many e-mails from constituents claiming that they are experiencing problems with their asthma as a result of certain odors coming from the company site. Councillor Evans said constituents are afraid to open their windows at night, and have complained about a burning sensation in their throat and watery eyes. He said he has not been able to get any information from the Indiana Department of Environmental Management (IDEM), or the Environmental Protection Agency (EPA) which is why the City of Indianapolis needs to address this matter. He said that Governor Mitch Daniels has taken away the funding for the Office of Environmental Services (OES) for all 92 counties, and now there is no agency to regulate or stop some of the things that are causing health issues. Councillor Scales asked Councillor Evans if there currently is a municipal ordinance that protects against this type of situation. Councillor Evans answered in the negative. He said there are no federal odor ordinances in the United States. He said the real problem lies with the chemicals that are being burned and dumped in the sewer system.

Councillor Mansfield said Councillor Evans has clearly outlined a pollution problem to its worst extent for air, water and land, but she is concerned that agricultural areas that have hog farms will be affected. Councillor Mansfield said farms have already been zoned for agriculture, and if this proposal is passed, there should be an amendment for their protection.

Councillor Evans said that he is open to suggestions regarding agriculture, and is willing to do an amendment if necessary.

Chairman Hunter said he applauds Councillor Evans' efforts, but the current proposal request may not be enforceable. Chairman Hunter said he does not support the current proposal because it is too broad, and that he would like to send this proposal to the Air Pollution Control Board for further review.

Janet McCabe, resident of Marion County, member of the Air Pollution Control Board, Executive Director of Improving Kids Environment, and former Director of IDEM, said that chronic odors are very tricky issues. She said odors usually suggest that there is something in the air that causes the odor. She said there are no federal regulations on odor, and EPA will not regulate odor. Ms. McCabe said if anyone will deal with odor in Marion County, it will have to be Marion County. She said she would like for the committee to work with the Indianapolis Air Pollution Control Board on this ordinance to come up with answers to address these particular issues. Ms. McCabe said there are a number of cities that have this type of ordinance that is being proposed, and that it can be successful, but it is a difficult process.

Councillor Evans said that he is open to developing a committee, but he would like for it to be made up of three members from the Air Pollution Control Board, himself, a Republican Councillor, and a member of the Chamber of Commerce. He said a lot of businesses are being affected by this matter.

Chairman Hunter asked Ms. McCabe if the make-up of this committee would be alright. Ms. McCabe said she has not spoken with Dr. Robert Daly, Director, Air Pollution Control Board, and therefore she cannot say for sure right now. She said the Air Pollution Control Board will meet again on Thursday, June 11, 2009.

Chairman Hunter asked for consent to "Postpone" Proposal No. 202, 2009 indefinitely until the committee receives a report from the Air Pollution Control Board.

Councillor Dane Mahern said that he would like to have a date set, instead of postponing the proposal indefinitely.

Councillor Mansfield asked Ms. McCabe if she has an idea of when the board would be finished reviewing Proposal No. 202, 2009. Ms. McCabe said she is unsure because she has not spoken with Dr. Daly. She said this type of issue can take a long time, or it can be done relatively quickly depending on everyone's availability.

A representative from Corporation Counsel said that they are currently looking at making changes to the code to address the issues that are related to this proposal, which may affect the issue of timing. Chairman Hunter said he will also monitor this situation.

Councillor Moriarty Adams asked how many people are present that would like to address the issue. She asked Ms. McCabe if there is a way to track odor emissions in the air. Ms. McCabe answered that it depends on the chemical.

Councillor Cain asked if there was a representative from ESI that wanted to make a statement.

Councillor Moriarty Adams asked for a show of hands of the people that were present in regards to this proposal. Councillor Moriarty Adams asked Ms. McCabe if air pollution was caused by certain chemicals that are released into the air. Ms. McCabe answered in the affirmative. Councillor Moriarty Adams asked Ms. McCabe if there is a way to track pollution. Ms. McCabe said it depends on what chemicals are in the air. She said some chemicals can be monitored with equipment, but it can be very expensive, and is not typically done. There are also other ways to track certain chemicals if a particular chemical is used. Councillor Moriarty Adams said it seems as though there would be regulations of what chemicals can be released if they have an effect on the public's health. Ms. McCabe said there are some regulations for certain kinds of chemicals being released into the air, but they are not comprehensive. She said many would be surprised to know the few amount of chemicals that the EPA does not regulate for health or odor reasons.

Councillor Minton-McNeill read a statement, **attached as Exhibit B**. She said that she supports Proposal No. 202, 2009 because they have similar issues in Wayne Township. She said OES does not exist anymore; therefore, she is happy to see that this matter is finally getting the attention that it needs. She said it is important that this issue has been brought to the forefront. Councillor Minton-McNeill asked that the committee consider everything that is being said, because residents should not have to live in a situation where they cannot enjoy where they live, or deal with issues that are detrimental to their health.

Councillor D. Mahern said he also has problems with pollution in his district, and there have been several companies that are in violation. He said this would be an avenue of making offenders responsible for their actions.

Mike Bowman, Attorney, Plews, Shadley, Racher & Braun, said he has represented ESI for several years. He said ESI is a used oil recycling business, and not a wastewater treatment plant. He said the business is very environmentally friendly, and is a necessary business, because many businesses create used oil as part of their operations. He said the oil will become a waste, or it will be recycled. Mr. Bowman said ESI's job is to turn the waste into a usable product. Mr. Bowman said ESI does not accept any hazardous waste, and there is no burning or dumping of products at ESI. Mr. Bowman said the citations Councillor Evans referred to were for wastewater. ESI has a permit to discharge wastewater to the wastewater treatment facility. He said the permit requires ESI to treat water to a point that the compounds are at the drinking water standards. He said there have been a few occasions that ESI has not met the drinking water standards, which resulted in the citations.

[Clerk's note: Councillor Scales left at 6:20 p.m.]

Glen Pratt, citizen, said an ordinance is needed to address problems that have been mentioned. He said that he supports the concept of assigning this matter to the Air Pollution Control Board. Mr. Pratt said that tremendous progress has been made with air and water. He said odors are a problem, and there needs to be a plan to address it.

Tom Glass, Wayne Township Marion County Alliance of Neighborhood Associations (MCANA), resident, thanked Councillor Minton-McNeill for her support on this matter. Mr. Glass said that he became involved with these types of issues due to a crematory. He said that there is a desire to keep the business, and with proper law enforcement, those businesses can do their jobs without citizens having to suffer. He said thanks to his involvement with OES and the Indianapolis Air Pollution Control Board; changes were made that had a positive effect on the crematory.

Timothy McQuire, Libertarian Party in Indianapolis, resident, asked why new laws are made to address problems with one company instead of simply enforcing the laws for that particular company. He said the city is facing budget issues, and asked who will pay for the enforcement of the new laws.

Susan Blair, President, Pike Township Resident Association (PTRA), said their function is for land use and code compliance. She said the President of ESI contacted her a couple of months ago, and wanted to have a meeting with the officers of the PTRA. She said time has not allowed them to meet yet, but they still plan to do so. She said the odor is still there and is pretty strong. Ms. Blair said she recognizes that this is a complex issue and that it will be difficult to come to an agreement, but the Pike Township residents are very interested in following the process and looks forward to seeing the outcome.

William Boyd, Acting President, Southwest Perry Civic Association, and Perry Township MCANA, said this is a good start to the ordinance. Mr. Boyd said if there is an odor in the air, there is very likely a problem. He said a certain level of acceptance needs to be set for the communities, and he feels that the ordinance is a good start to addressing the problem.

Clint Fultz, resident, said he commutes through the area around ESI. He said there is a smell in that area that is very distinct and different.

Councillor Speedy moved, seconded by Councillor Dane Mahern, to "Postpone" Proposal No. 202, 2009. The motion carried by a vote of 8-0.

Public Works Committee  
May 28, 2009  
Page 6

There being no further business, and upon motion duly made, the meeting adjourned at 6:56 p.m.

Respectfully Submitted,

---

Benjamin Hunter, Chairman

BH/cj



Public Works- REMARKS 5-28-09

Today, I sit here with residents from Pike Township, Wayne Township and other concern citizens to say that no citizen of Indianapolis should have to live with a disgusting and threatening odor coming into their homes.

The problems with ESI and other companies have gone on for too long. We, as a community, are here to demand action and hold these companies accountable.

Given the environmental and economic conditions of the day, we cannot sit back and allow these companies to pollute our neighborhoods while simultaneously sending us the bill for it.

Due to the offensive odor that is being produced by ESI– and the high volume of emergency runs made by the Pike Township Fire Department – the local residents paid over \$11,400 in fees in 2008 alone. Keep in mind, however, this community nuisance is not isolated to just one year, but rather has been lingering for over 5 years. In this time period, the odor that is spewing from ESI has led to nearly \$60,000 in expenses that were billed to the residents of Pike Township.

I have experienced first hand how the polluted air surrounding ESI can affect the lives of nearby residents. Just last weekend –while returning home from a late

movie with my wife – the heavy oily smell made my nauseous. My wife is currently 9months pregnant.

We in Pike Township, of course, recognize and encourage the right of local businesses to develop and prosper. For the record, I am NOT against business. I'm pro-business. However, I value neighborhoods and the health of my constituents even more.

“every right implies a responsibility; every opportunity, an obligation, every possession, a duty.”

We believe that ESI has turned its back on its own responsibilities and duties, and in doing so has disrupted the lives of our residents and neighboring businesses. As Councilman of District 1, I am proposing the first Indianapolis city odor ordinance that will hold irresponsible businesses like ESI accountable, while also keeping our community safe and clean.

Because ESI won't clean up it's act, I'm proposing we give compliance authority to the city's Air Board or a subcommittee of the Air Board. I am also proposing that the Office of Compliance, which is newly created by Mayor Ballard, to implement the proposed ordinance. I hope the council and the mayor will support this ordinance and allow the people of Pike Township, Wayne Township and all over Marion County their freedom from stench

Statement by Councilor Doris Minton-McNeill

One of the reasons that I support this proposal is because In Wayne Township, we had a similar problem and we saw our actions have an impact on the community when a crematory opened in an adjoining neighborhood that seemed not to be operating according to zoning code.

With the great efforts of Mr. Tom Glass, President of 500 View Neighborhood Association and other Wayne community leaders, we worked with the neighbors to see how big the problem was and how everyone felt about it. Over the course of almost a year and a half, we fought to have the crematorium comply with zoning regulations and were ultimately successful in having this occur.

We, as neighborhood presidents, believe that anybody who is a hard working taxpayer, homeowner, or citizen should not be made to endure disrupting and offense odors in the community in which they live that is detrimental to their health or affect their day-to-day living. And in this situation, that was the case.

**As a result of our efforts to have the crematorium operate appropriately,** the City-County Council is updating the zoning for crematoriums and the City of Indianapolis, Office of Environmental Services is updating the air quality standards.

I applaud Councilor Evan for his efforts. I too am grateful that Chairman Ben Hunter has decided to hear this proposal and I also hope that the members of Public Works Committee share our belief that all citizens of Indianapolis have the right to live in their homes without fear of a horrible stench nearby."

Thank you.